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7590		06/06/2005	EXAMINER	
Barton E. Showalter		TRAN, THIEN D		
Baker Botts L.L.P.		ART UNIT		
2001 Ross Avenue		PAPER NUMBER		
Dallas, TX 75201-2980		2665		

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/746,298

Applicant(s)

HABER, RICHARD C.

Examiner

Thien D. Tran

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/17/2005 11/09/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, 5-10, 12, 14-17, 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Levin et al (U.S Patent No. 6,625,777 B1).

Regarding claims 1, 22, 23 Levin discloses a DSL line card (IDSL line card, herein after IDSL line card), figure 1, comprising:

at least one IDSL line interface having an adjustable bit rate, col.5 lines 35-40, comprising:

a processing unit (microcontroller, hereinafter microcontroller), col.15 lines 30-35, operable to control the bit rate associated with the at least one line interface, col.11 lines 50-58, the microcontroller comprising:

a microprocessor (processor), col.15 lines 30-40; and

a memory, col.15 lines 35, associated with the processor and storing a modules of software to perform data rate control (rate adapter application), the rate adapter application operable, when executed on the processor, col.15 lines 30-40, to:

measure the received SNR from a channel (receive an error level) associated with transfer of data through the at least one IDSL line interface, col.5 lines 12-20;

determine that the received error level exceeds a target SNR (maximum error level), col.12 lines 13-30; and

in response to determining that the maximum error level is exceeded, adjust the bit rate for the at least one IDSL line interface and determine that a resulting error level meets or falls below the maximum error level, col.11 lines 10-60.

Regarding claim 2, Levin discloses the error level is a redundancy level (CRC error level), col.9 lines 50-65.

Regarding claim 3, Levin discloses that the rate adapter application is further operable to adjust the bit rate, in response to determining that the maximum error level is exceeded, by increasing or decreasing the bit rate, col.11 lines 20-40.

Regarding claim 5, Levin discloses that the rate adapter application is further operable, when executed on the processor, to access a data rate table (bit rate table), col.12 lines 1-10, to determine an adjusted bit rate, col.6 lines 15-35.

Regarding claim 6, Levin discloses that the rate adapter application is further operable, when executed on the processor, to apply a default bit rate if the error level associated with transfer of data through at least one IDSL line interface exceeds the maximum error level and has traversed an associated bit rate table, col.5 lines 20-45.

Regarding claim 7, Levin discloses a method for communicating data according to ISDN protocol, col.4 lines 28-50, comprising:

connecting a first IDSL line interface to a second IDSL line interface, the second IDSL line interface at a location remote from the first IDSL line interface at a central office, the first IDSL line interface having a data rate of the line card at the central office (first bit rate), and the second IDSL line interface having a data rate of the line card at the remote station (second bit rate), col.5 lines 35-40;

transmitting data between the first IDSL line interface and the second IDSL line interface, figure 1;

determining that a redundancy of error correction (CRC, herein after CRC) level associated with the data transfer exceeds a predetermined acceptable level, col.9 lines 50-65; and

adjusting the second bit rate until a CRC level associated with subsequent data transfer between the first and second IDSL line interfaces meets or falls below the predetermined acceptable level, col.11 lines 30-40.

Regarding claim 8, Levin discloses that connecting a first IDSL line interface to a second IDSL line interface comprises connecting an IDSL line interface at a customer's premises to an IDSL line interface at a telecommunications central office, figure 1.

Regarding claim 9, Levin discloses that the second IDSL line interface is located at a customer's premises, figure 1.

Regarding claim 10, Levin discloses that the first IDSL line interface is located at a customer's premises, figure 1.

Regarding claim 12, Levin discloses that adjusting the second bit rate comprises accessing a bit rate table, col.12 lines 1-5.

Regarding claim 14, Levin discloses method of establishing data communication according to ISDN protocol, col.15 lines 9-15, comprising:

- connecting a first IDSL line interface to a remote computer (first end) of an ISDN line, figure 1;

- connecting a second IDSL line interface to a central office (second end) of the ISDN line, figure 1;

- setting a bit transfer rate of the first IDSL line interface to a first bit rate, col.11 lines 11-40;

- setting a bit transfer rate of the second IDSL line interface to a second bit rate, col.11 lines 11-40;

- transmitting data between the first and second IDSL line interfaces, figure 1;

- determining a redundancy for error correction (CRC, hereinafter CRC) level associated with the data transmission, col.11 lines 35-40;

comparing the determined CRC level to an acceptable error level, col.9 lines 50-65;

adjusting the bit transfer rate of the second IDSL line interface in response to at least a determination based on the comparison that the CRC level associated with the data transmission exceeds the acceptable error level, col.5 lines 55-65; and

repeating the steps of transmitting data, figure 8,

determining a CRC level, comparing the determined CRC level, and adjusting the bit transfer rate until the determined CRC level equals or falls below the threshold level, figure 8.

Regarding claim 15, Levin discloses that connecting the first IDSL line interface connecting the first IDSL line interface to a first end of an ISDN line comprises connecting an IDSL line interface located at a customer's premises to the first end of an ISDN line, figure 1.

Regarding claim 16, Levin discloses that connecting the first IDSL line interface to a first end of an ISDN line comprises connecting an IDSL line interface located remote from a customer's premises to the first end of an ISDN line, figure 1.

Regarding claim 17, Levin discloses that adjusting the bit transfer rate comprises accessing a bit rate table, col.12 lines 1-10.

Regarding claim 19, Levin discloses that adjusting the bit transfer rate of the second IDSL line interface comprises adjusting, by the second IDSL line interface, the bit transfer rate of the second IDSL line interface, col.4 lines 25-50.

Regarding claim 20, Levin discloses that adjusting the bit transfer rate of the second IDSL line interface comprises adjusting, by a computer located remote from the second IDSL line interface, the bit transfer rate of the second IDSL line interface, col.11 lines 15-40.

Regarding claim 21, Levin discloses a system for facilitating communication of data according to ISDN protocol, col.15 line 13, comprising:

- a first means located proximate a first location and a second means located proximate a second location for modulating and demodulating data exchanged between the first and second locations, figure 1;

- a line means connecting the first means and the second means for carrying data exchanged between the first and second locations according to ISDN protocol, col.15 line 13; and

- a controller means for determining that data exchanged between the first and second means has an associated error level that exceeds a desired level and in response adjusting a bit rate associated with the second means until the associated error level reaches or falls below a threshold level, figure 8.

Regarding claim 24, Levin discloses that the controller comprises a personal computer, figure 1.

Regarding claim 25, Levin discloses that the controller comprises a microcontroller stored on a line card, the line card also storing the first IDSL line interface, col.15 lines 5-50.



***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 11, 13, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al (U.S Patent No. 6,625,777 B1) in the view of Sweitzer et al (U.S Patent No. 6,570,915 B1)

Regarding claims 13, 18 Levin discloses limitations of the base claim. However, Levin does not disclose that transmitting data comprises transmitting at least an HDLC frame. Sweitzer discloses transmitting data comprising at least an HDLC frame, figure 1. Therefore, it would have been obvious to one having ordinary skill in the art to the feature of transmitting at least an HDLC frame in the DSL system of Levin so that the system can work in variety of different transmission protocols.

Regarding claim 4, Levin discloses limitations of the base claim. Levin does not disclose that at least one IDSL line interface card comprises eight IDSL line interfaces. However, it would have been an obvious matter design choice to have that at least one IDSL line interface card comprises eight IDSL line interfaces, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 11, Levin discloses limitations of the base claim. Levin does not disclose that the second IDSL line interface is DSLAM, figure 1. However, it would have been obvious to one having ordinary skill in the art to have the feature of DSLAM in the system of Levin to provide DSL services for multiple users at the central office.

### ***Response to Arguments***

5. Applicant's arguments filed 11/09/2004 have been fully considered but they are not persuasive.

Applicant argues that Levin does not disclose IDSL interface used for adjusting the bit rate and providing support for ISDN protocol. However, Examiner respectfully disagrees with the argument because Levin discloses that ADSL transceiver modem 40 (line interface) at the central office, figure 1, can be used as IDSL line interface to change the data rate (bit rate) of the connection line, col.5 lines 30-40, and to provide support for ISDN protocol, col.15 lines 5-15.

Applicant argues that Levin does not disclose the comparison of the CRC level associated with the data transmission exceeding an acceptable error level. However, Examiner respectfully disagrees with the argument because Levin discloses determining that a redundancy of error correction (CRC) level associated with the data transfer exceeds a predetermined acceptable level, col.9 lines 50-65.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (571) 272-3156. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

Patent Examiner

Thien Tran

**DUC HO  
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Duc Ho', written in a cursive style.

5-13-05